

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1242

Citations Affected: IC 5-13; IC 5-14-3; IC 6-1.1-23-1; IC 8-17-4.1; IC 8-22-3-9; IC 8-22-3-9.5; IC 8-23-3-8; IC 20-14-7-2; IC 33-19-6.5; IC 35-33-9-7; IC 36-1-8; IC 36-2-7-9; IC 36-4-6-19; IC 36-6; IC 36-7-4-208; IC 36-8; IC 36-9-13-30; IC 36-10-4-16; IC 36-4-10-6.

Synopsis: Local government matters. Conference committee report for EHB 1242. Requires the investing officer of most political subdivisions to use multiple depositories. Removes the requirement that multiple depositories be used for investment certificates of deposit. Removes the requirement of certifying a budget transfer to the county auditor. Allows a fiscal officer to appropriate insurance receipts. Amends the law concerning the annual road and street report. Requires a local rainy day fund: (1) transfer to be made after the last day of the fiscal year and before March 1 of the subsequent calendar year; and (2) to be established only by ordinance or resolution. Removes a requirement that a finding must be made that an appropriation is consistent with the intent of the fund. Allows a political subdivision to collect a credit card charge for costs charged to the political subdivision for accepting credit cards. Requires adoption of a second class city's police and firefighter salary ordinance by September 20. Allows a municipality with a fire department to establish a hazardous materials response fund for the deposit of service charges. Restates the annual meeting of the township legislative body. Eliminates the requirement that township employees, deputies, and assistants be paid on a monthly basis. Allows distributions from the Marion County public mass transportation fund to the public transportation corporation. Allows a cash management system contract to be renewed with the same or better terms. Allows a county treasurer's agent to serve a demand for delinquent personal property taxes. Removes provisions that require some duties of the South Bend or Mishawaka fiscal officer to be performed by the St. Joseph County treasurer. Requires a court clerk to collect a credit card service fee. Allows a county property owner to serve on a county plan commission if the county lacks an agricultural extension educator. Makes annexation provisions that apply to other municipalities applicable to a city in St. Joseph County. Allows a county building authority to sell revenue bonds at a private or negotiated sale. Allows a member of an airport authority board to participate in meetings from a location other than the meeting site if certain requirements are met. If disclosure of a public record would have a reasonable likelihood of threatening public safety by exposing vulnerability to a terrorist attack: (1) the

public agency may prevent disclosure of the records; (2) a state agency may consult with the counterterrorism and security council regarding the request for disclosure. Requires a public agency that owns or operates an airport to approve disclosure of records concerning airport buildings. Moves a provision concerning disclosure of lists of names and addresses to another location in the public records statute. **(This conference committee report inserts the following provisions: (1) Clerk's credit card service fee. (2) Plan commission membership absent a county agricultural extension educator. (3) Annexation provisions for a city in St. Joseph County. (4) County building authority sale of revenue bonds. (5) Airport authority board meetings. (6) Records disclosure and risk of terrorist attack. Makes a technical change. Removes a provision from EHB 1242 regarding deadlines for county surplus tax fund refund claims.)**

Effective: Upon passage; ; July 1, 2003; January 1, 2004.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1242 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-13-8-9 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) All public funds of all
- 4 political subdivisions shall be deposited in the designated depositories
- 5 located in the respective territorial limits of the political subdivisions,
- 6 except as provided in this section.
- 7 (b) Each board of finance of a political subdivision:
- 8 (1) that is not a city, town, or school corporation; and
- 9 (2) whose jurisdiction crosses one (1) or more county lines;
- 10 may limit its boundaries for the purpose of this section to that portion
- 11 of the political subdivision within the county where its principal office
- 12 is located.
- 13 (c) If there is no principal office or branch of a financial institution
- 14 located in the county or political subdivision, or if no financial
- 15 institution with a principal office or branch in the county or political
- 16 subdivision will accept public funds under this chapter, the board of
- 17 finance of the county and the boards of finance of the political
- 18 subdivisions in the county shall designate one (1) or more financial
- 19 institutions with a principal office or branch outside of the county or

political subdivision, and in the state, as a depository or depositories.

(d) The board of trustees for a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1 may invest any money in the hospital fund anywhere in the state with any financial institution designated by the state board of finance as depositories for state deposits.

(e) If only one (1) financial institution that has a branch or principal office in a county or political subdivision is willing to accept public funds, the board of finance for the county or political subdivision may:

(1) treat the financial institution that is located within the county or political subdivision as if the financial institution were not located within the county or political subdivision; and

(2) designate one (1) or more financial institutions to receive public funds under the requirements of subsection (c).

(f) The investing officer shall maintain the deposits as follows:

(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all the transaction accounts for the political subdivision does not exceed one hundred thousand dollars (\$100,000).

(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and fewer than three (3) financial institutions are designated by the local board of finance as a depository.

(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.

SECTION 2. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository. ~~The fiscal body of a political subdivision shall require the investing officer to deposit and maintain deposits that are invested or reinvested under this subsection as follows:~~

~~(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all of the transaction accounts for the political subdivision does not exceed one hundred thousand dollars (\$100,000):~~

~~(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and less than three (3) financial institutions are designated by the local board of finance as a depository:~~

~~(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository:~~

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that

certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. A deposit made under this subsection shall be placed in the designated depository quoting the highest rate of interest. If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

SECTION 3. IC 5-13-11-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A contract may be renewed under this chapter if the county board of finance for a county subject to IC 5-13-7-1 or the fiscal body of a political subdivision and the investing officer of the political subdivision agree with the depository to renew the contract under the same terms or better terms as the original contract.**

(b) The term of a renewed contract may not be longer than the term of the original contract.

(c) A contract may be renewed any number of times.

SECTION 4. IC 5-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:**

(1) identify with reasonable particularity the record being requested; and

(2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute.

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). The public agency shall either:

(1) provide the requested copies to the person making the request; or

(2) allow the person to make copies:

(A) on the agency's equipment; or

(B) on his the person's own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

(1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of

enhanced access public records containing information owned by or entrusted to the public agency.

(2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map. ~~(as defined by IC 5-14-3-2).~~

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person ~~(as defined in IC 5-14-3-2)~~ for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may

1 **not discriminate among similarly situated commercial entities.**

2 (g) A public agency may not enter into or renew a contract or an
3 obligation:

4 (1) for the storage or copying of public records; or

5 (2) that requires the public to obtain a license or pay copyright
6 royalties for obtaining the right to inspect and copy the records
7 unless otherwise provided by applicable statute;

8 if the contract, obligation, license, or copyright unreasonably impairs
9 the right of the public to inspect and copy the agency's public records.

10 ~~(g)~~ (h) If this section conflicts with IC 3-7, the provisions of IC 3-7
11 apply.

12 SECTION 5. IC 5-14-3-4, AS AMENDED BY P.L.1-2002,
13 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 4. (a) The following public records are
15 excepted from section 3 of this chapter and may not be disclosed by a
16 public agency, unless access to the records is specifically required by
17 a state or federal statute or is ordered by a court under the rules of
18 discovery:

19 (1) Those declared confidential by state statute.

20 (2) Those declared confidential by rule adopted by a public agency
21 under specific authority to classify public records as confidential
22 granted to the public agency by statute.

23 (3) Those required to be kept confidential by federal law.

24 (4) Records containing trade secrets.

25 (5) Confidential financial information obtained, upon request, from
26 a person. However, this does not include information that is filed
27 with or received by a public agency pursuant to state statute.

28 (6) Information concerning research, including actual research
29 documents, conducted under the auspices of an institution of
30 higher education, including information:

31 (A) concerning any negotiations made with respect to the
32 research; and

33 (B) received from another party involved in the research.

34 (7) Grade transcripts and license examination scores obtained as
35 part of a licensure process.

36 (8) Those declared confidential by or under rules adopted by the
37 supreme court of Indiana.

38 (9) Patient medical records and charts created by a provider, unless
39 the patient gives written consent under IC 16-39.

40 (10) Application information declared confidential by the
41 twenty-first century research and technology fund board under
42 IC 4-4-5.1.

43 ~~(11) The following personal information concerning a customer of
44 a municipally owned utility (as defined in IC 8-1-2-1):~~

45 ~~(A) Telephone number.~~

46 ~~(B) Social Security number.~~

47 ~~(C) Address.~~

48 ~~(12)~~ (11) A photograph, a video recording, or an audio recording
49 of an autopsy, except as provided in IC 36-2-14-10.

50 (b) Except as otherwise provided by subsection (a), the following
51 public records shall be excepted from section 3 of this chapter at the

1 discretion of a public agency:

2 (1) Investigatory records of law enforcement agencies. However,
3 certain law enforcement records must be made available for
4 inspection and copying as provided in section 5 of this chapter.

5 (2) The work product of an attorney representing, pursuant to state
6 employment or an appointment by a public agency:

7 (A) a public agency;

8 (B) the state; or

9 (C) an individual.

10 (3) Test questions, scoring keys, and other examination data used
11 in administering a licensing examination, examination for
12 employment, or academic examination before the examination is
13 given or if it is to be given again.

14 (4) Scores of tests if the person is identified by name and has not
15 consented to the release of ~~his~~ **the person's** scores.

16 (5) The following:

17 (A) Records relating to negotiations between the department of
18 commerce, the Indiana development finance authority, the film
19 commission, the Indiana business modernization and technology
20 corporation, or economic development commissions with
21 industrial, research, or commercial prospects, if the records are
22 created while negotiations are in progress.

23 (B) Notwithstanding clause (A), the terms of the final offer of
24 public financial resources communicated by the department of
25 commerce, the Indiana development finance authority, the
26 Indiana film commission, the Indiana business modernization
27 and technology corporation, or economic development
28 commissions to an industrial, a research, or a commercial
29 prospect shall be available for inspection and copying under
30 section 3 of this chapter after negotiations with that prospect
31 have terminated.

32 (C) When disclosing a final offer under clause (B), the
33 department of commerce shall certify that the information being
34 disclosed accurately and completely represents the terms of the
35 final offer.

36 (6) Records that are intra-agency or interagency advisory or
37 deliberative material, including material developed by a private
38 contractor under a contract with a public agency, that are
39 expressions of opinion or are of a speculative nature, and that are
40 communicated for the purpose of decision making.

41 (7) Diaries, journals, or other personal notes serving as the
42 functional equivalent of a diary or journal.

43 (8) Personnel files of public employees and files of applicants for
44 public employment, except for:

45 (A) the name, compensation, job title, business address, business
46 telephone number, job description, education and training
47 background, previous work experience, or dates of first and last
48 employment of present or former officers or employees of the
49 agency;

50 (B) information relating to the status of any formal charges
51 against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or ~~his~~ **the employee's** representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of ~~his~~ **the donor's** identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) domestic preparedness strategies;

(G) the location of community drinking water wells and surface water intakes;

(H) the emergency contact information of emergency responders and volunteers;

(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(e) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses; unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency;

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education;

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) (c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) (d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) (e) Notwithstanding subsection (e) (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 6. IC 5-14-3-9, AS AMENDED BY P.L.191-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

(1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or

(2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

1 whichever occurs first.

2 (b) If a person requests by mail or by facsimile a copy or copies of a
3 public record, a denial of disclosure does not occur until seven (7) days
4 have elapsed from the date the public agency receives the request.

5 (c) If a request is made orally, either in person or by telephone, a
6 public agency may deny the request orally. However, if a request
7 initially is made in writing, by facsimile, or through enhanced access,
8 or if an oral request that has been denied is renewed in writing or by
9 facsimile, a public agency may deny the request if:

10 (1) the denial is in writing or by facsimile; and

11 (2) the denial includes:

12 (A) a statement of the specific exemption or exemptions
13 authorizing the withholding of all or part of the public record;
14 and

15 (B) the name and the title or position of the person responsible
16 for the denial.

17 (d) **This subsection applies to a board, a commission, a**
18 **department, a division, a bureau, a committee, an agency, an office,**
19 **an instrumentality, or an authority, by whatever name designated,**
20 **exercising any part of the executive, administrative, judicial, or**
21 **legislative power of the state. If an agency receives a request to**
22 **inspect or copy a record that the agency considers to be excepted**
23 **from disclosure under section 4(b)(19) of this chapter, the agency**
24 **may consult with the counterterrorism and security council**
25 **established under IC 4-3-20. If an agency denies the disclosure of**
26 **a record or a part of a record under section 4(b)(19) of this**
27 **chapter, the agency or the counterterrorism and security council**
28 **shall provide a general description of the record being withheld**
29 **and of how disclosure of the record would have a reasonable**
30 **likelihood of threatening the public safety.**

31 (e) A person who has been denied the right to inspect or copy a
32 public record by a public agency may file an action in the circuit or
33 superior court of the county in which the denial occurred to compel the
34 public agency to permit the person to inspect and copy the public
35 record. Whenever an action is filed under this subsection, the public
36 agency must notify each person who supplied any part of the public
37 record at issue:

38 (1) that a request for release of the public record has been denied;
39 and

40 (2) whether the denial was in compliance with an informal inquiry
41 response or advisory opinion of the public access counselor.

42 Such persons are entitled to intervene in any litigation that results from
43 the denial. The person who has been denied the right to inspect or copy
44 need not allege or prove any special damage different from that
45 suffered by the public at large.

46 ~~(e)~~ (f) The court shall determine the matter de novo, with the burden
47 of proof on the public agency to sustain its denial. If the issue in de
48 novo review under this section is whether a public agency properly
49 denied access to a public record because the record is exempted under
50 section 4(a) of this chapter, the public agency meets its burden of proof
51 under this subsection by establishing the content of the record with

adequate specificity and not by relying on a conclusory statement or affidavit.

~~(f)~~ (g) If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

~~(g)~~ (h) The court may review the public record in camera to determine whether any part of it may be withheld under this chapter.

~~(h)~~ (i) In any action filed under this section, a court shall award reasonable ~~attorney~~ **attorney's** fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

~~(i)~~ (j) A court shall expedite the hearing of an action filed under this section.

SECTION 7. IC 6-1.1-18-6, AS AMENDED BY P.L.90-2002, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The proper officers of a political subdivision may transfer money from one major budget classification to another within a department or office if:

(1) they determine that the transfer is necessary;

(2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article; **and**

(3) the transfer is made at a regular public meeting and by proper ordinance or resolution. ~~and~~

~~(4) the transfer is certified to the county auditor.~~

(b) A transfer may be made under this section without notice and without the approval of the department of local government finance.

SECTION 8. IC 6-1.1-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. Notwithstanding the

other provisions of this chapter, the ~~appropriating body~~ **fiscal officer** of a political subdivision may appropriate funds received from an insurance company if:

- (1) the funds are received as a result of damage to property of the political subdivision; and
- (2) the funds are appropriated for the purpose of repairing or replacing the damaged property.

However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after they are received.

SECTION 9. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Annually, after November 10th but prior to August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. The written demand may be served upon the taxpayer:

- (1) by registered or certified mail;
 - (2) in person by the county treasurer or ~~his deputy~~; **the county treasurer's agent**; or
 - (3) by proof of certificate of mailing.
- (b) The written demand required by this section shall contain:
- (1) a statement that the taxpayer is delinquent in the payment of personal property taxes;
 - (2) the amount of the delinquent taxes;
 - (3) the penalties due on the delinquent taxes;
 - (4) the collection expenses which the taxpayer owes; and
 - (5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:
 - (A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or
 - (B) a judgment may be entered against the taxpayer in the circuit court of the county.

SECTION 10. IC 8-17-4.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The governing body shall prepare by ~~December 31~~ **April 15** of each year an operational report **for the prior calendar year** of the department within the county or municipality that has road and street responsibilities.

SECTION 11. IC 8-17-4.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. ~~(a)~~ This report shall be prepared on forms prescribed by the state board of accounts and must disclose ~~for the calendar year the following~~:

- ~~(1) The receipts of the department and the sources of the receipts;~~
- ~~(2) The expenditures of the department showing the purpose of each expenditure made and to account for all funds;~~
- ~~(3) The number of employees of the department each month and the work classifications of the employees;~~
- ~~(4) The proposed construction, reconstruction, and repair program following the year of the annual report;~~
- ~~(5) The maintenance expenses;~~

(b) The report must also include other all information considered necessary by the state board of accounts to reflect the financial condition and operations of the department.

SECTION 12. IC 8-17-4.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The annual operational report must be completed and a copy filed with the state board of accounts, the governing body, and the department by ~~February~~ **15 June 1** following the operational report year. The department shall make the report available to the public.

SECTION 13. IC 8-22-2-4, AS AMENDED BY P.L.137-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The board shall choose, annually, at its first regular meeting in January, one (1) of its members president, and another of its members vice president to perform the duties of the president during the absence or disability of the president. The eligible entity shall provide a suitable office for the board in the entity, or, at the option of the board, at the airport, at the expense of the department of aviation, where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times. Before February 2 each year the board shall make a report to the executive of its proceedings with a full statement of its receipts and disbursements for the preceding year, including a report of the acquisition of air navigation facilities and of other property that has come under the control of the board, improvements made, general character of the work of the board, and progress of aviation and air commerce under its control. Money received by the board shall be paid into the entity's treasury and credited to the department of aviation, and all expenditures relating to the property and business under the control of the department, except as otherwise provided, may be provided for by special levy of taxes under section 7 of this chapter, and shall be paid from the entity's treasury when ordered by the board. A majority of the members **physically present** constitutes a ~~quorum~~; **quorum for a meeting.** ~~and~~ An action of the board must be taken by a majority of the members **participating in person and by a means of a communication under section 4.5 of this chapter** at a regular or duly called special meeting. In case of a tie vote on any question, the executive shall decide. The board shall fix a time for holding regular meetings. Regular or special meetings shall be held at the office of the board or at another public place in any county where the board owns or operates an airport. Special meetings of the board may be called at any time by its president, or by any two (2) of its members, upon a written request to the secretary. Whenever in the opinion of the president or of any two (2) members, a special meeting is necessary, he or they shall cause the secretary to notify the members by mailing written notice of the time of the meeting, at least one (1) day before the meeting. A member may waive notice in writing and the presence of a member at a special meeting is considered a waiver of notice.

SECTION 14. IC 8-22-2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) This section applies to a meeting of the board at which a quorum of members is physically present at the place**

1 where the meeting is conducted.

2 (b) A member of the board may participate in a meeting of the
3 board by using a means of communication that allows:

4 (1) all other members participating in the meeting; and

5 (2) all members of the public physically present at the place
6 where the meeting is conducted;

7 to simultaneously communicate with each other during the
8 meeting.

9 (c) A member who participates in a meeting under subsection
10 (b):

11 (1) is considered to be present at the meeting; and

12 (2) may not be counted for purposes of establishing a quorum.

13 (d) The memoranda of the meeting prepared under IC 5-14-1.5-4
14 must also state the name of:

15 (1) each member who was physically present at the place where
16 the meeting was conducted;

17 (2) each member who participated in the meeting by using a
18 means of communication described in subsection (b); and

19 (3) each member who was absent.

20 (e) Before a member may participate in a meeting from a
21 location other than the meeting site, the board must establish
22 procedures for a member to participate in a meeting by a means of
23 communication as set forth in this section.

24 SECTION 15. IC 8-22-3-9, AS AMENDED BY P.L.137-2000,
25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2003]: Sec. 9. (a) The board shall elect, at its first regular
27 meeting to be conducted on the first July 1 or January 1 after
28 appointment of the board members, and annually thereafter, one (1) of
29 its members president, and another of its members vice president, who
30 performs the duties of the president during the absence of or disability
31 of the president. The board shall keep a suitable office at the airport
32 where its maps, plans, documents, records, and accounts shall be kept,
33 subject to public inspection at all reasonable times.

34 (b) The board shall provide by rule for regular meetings to be held
35 not less than at monthly intervals throughout the year.

36 (c) The board shall convene in a special meeting when one is called.
37 The president or a majority of the members of the board may call a
38 special meeting. The board shall establish by rule a procedure for
39 calling special meetings.

40 (d) Regular or special meetings shall be held at the office of the
41 board or at another public place in any county where the board owns or
42 operates an airport. The board may adjourn any regular or special
43 meeting to a specific day designated at the time of adjournment, and
44 that meeting is a continuation of the meeting so adjourned. This
45 subsection does not apply to an authority that was established under
46 IC 19-6-3 (before its repeal on April 1, 1980).

47 (e) A majority of the members of the board **who are physically**
48 **present** constitutes a quorum for a meeting. The board may act
49 officially by an affirmative vote of a majority of those **present at**
50 **participating in the meeting in person and by a means of a**
51 **communication under section 9.5 of this chapter** at which the action

1 is taken.

2 (f) The board shall keep a written record of its proceedings, which
3 shall be available for public inspection in the office of the board. The
4 board shall record the aye and nay tally of the vote for each ordinance
5 or resolution.

6 (g) The board shall adopt a system of rules of procedure under which
7 its meetings are to be held. The board may suspend the rules of
8 procedure by unanimous vote of the members of the board who are
9 present at the meeting. The board may not suspend the rules of
10 procedure beyond the duration of the meeting at which the suspension
11 of rules occurs.

12 (h) The board may supervise its internal affairs as do local legislative
13 and administrative bodies.

14 SECTION 16. IC 8-22-3-9.5 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2003]: **Sec. 9.5. (a) This section applies to a meeting of the board
17 at which a quorum of members is physically present at the place
18 where the meeting is conducted.**

19 **(b) A member of the board may participate in a meeting of the
20 board by using a means of communication that allows:**

21 **(1) all other members participating in the meeting; and**
22 **(2) all members of the public physically present at the place**
23 **where the meeting is conducted;**
24 **to simultaneously communicate with each other during the**
25 **meeting.**

26 **(c) A member who participates in a meeting under subsection**
27 **(b):**

28 **(1) is considered to be present at the meeting; and**
29 **(2) may not be counted for purposes of establishing a quorum.**

30 **(d) The memoranda of the meeting prepared under IC 5-14-1.5-4**
31 **must also state the name of:**

32 **(1) each member who was physically present at the place where**
33 **the meeting was conducted;**
34 **(2) each member who participated in the meeting by using a**
35 **means of communication described in subsection (b); and**
36 **(3) each member who was absent.**

37 **(e) Before a member may participate in a meeting from a**
38 **location other than the meeting site, the board must establish**
39 **procedures for a member to participate in a meeting by a means of**
40 **communication as set forth in this section.**

41 SECTION 17. IC 8-23-3-8 IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JANUARY 1, 2004]: Sec. 8. (a) The public mass
43 transportation fund is established for the purpose of promoting and
44 developing public mass transportation in Indiana. The fund shall be
45 administered by the department.

46 (b) The treasurer of state may invest the money in the fund in the
47 same manner as other public funds may be invested.

48 (c) Money in the fund at the end of a fiscal year does not revert to the
49 state general fund.

50 ~~(d) Money distributed from the fund in a county containing a~~
51 ~~consolidated city must be distributed to the consolidated city for~~

1 promoting and developing public mass transportation and not to a
2 public transportation corporation located within the county.

3 SECTION 18. IC 20-14-7-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The library board
5 of any public library established as a 1901 city or town library consists
6 of qualified and experienced persons of at least eighteen (18) years of
7 age who have been residents of the municipality where the library is
8 located for at least two (2) years immediately preceding their
9 appointment. The members shall be appointed for two (2) year terms
10 as follows:

11 (1) The board of commissioners of the county where the library is
12 located shall appoint one (1) member.

13 (2) The fiscal body of the county where the library is located shall
14 appoint one (1) member.

15 (3) The municipal executive shall appoint one (1) member.

16 (4) The municipal legislative body shall appoint one (1) member.

17 (5) The school board of the school corporation where the library is
18 located shall appoint three (3) members who may be members of
19 the school board.

20 (b) If a vacancy occurs on the library board for any cause, the
21 appointing authority shall fill the respective vacancy. The appointing
22 authority may at any time, for cause shown, remove any member of the
23 library board and appoint a new member to fill the vacancy occasioned
24 by this removal.

25 (c) The library board members shall serve without compensation.

26 (d) All appointments to membership on the library board shall be
27 evidenced by certificates of appointment signed by the appointing
28 authority. Certificates of appointment shall be handed to or mailed to
29 the address of the appointee. Within ten (10) days after receiving the
30 certificates of appointment, the appointees shall take an oath of office,
31 before the clerk of the circuit court, that the appointee will faithfully
32 discharge ~~his~~ **the appointee's** duties as a member of the library board
33 to the best of ~~his~~ **the appointee's** ability. The appointee shall file the
34 certificate, with the oath endorsed on it, with the clerk of the circuit
35 court of the county in which the library is located.

36 (e) Within five (5) days after all the members of the library board
37 have been appointed and have taken the oath of office, the members
38 shall meet and organize by electing one (1) of their number president,
39 one (1) vice president, and one (1) secretary. They shall also select
40 committees or an executive board to carry on the work of the board
41 should they determine that committees or an executive board is
42 necessary for this purpose.

43 (f) The facilities of a public library established as a 1901 city or town
44 library are open and free for the use and benefit of all of the residents
45 of the library district.

46 (g) The fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~
47 of the municipality operating a public library under this section shall
48 prepare and file with the municipal legislative body, before January 16
49 each year, an itemized statement, under oath, of all the receipts and
50 disbursements of the library board for the year ending December 31
51 immediately preceding the preparing and filing of the report. The report

1 must contain an itemized statement of the sources of all receipts, of all
 2 disbursements made, and of the purpose for which each was made. This
 3 annual report may be inspected by the citizens of the municipality and
 4 township in which the library is located.

5 SECTION 19. IC 33-19-6.5 IS ADDED TO THE INDIANA CODE
 6 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2003]:

8 **Chapter 6.5. Credit Card Service Fee**

9 **Sec. 1. This chapter applies to any transaction in which:**

10 (1) the clerk is required to collect money from a person,
 11 including:

12 (A) bail;

13 (B) a fine;

14 (C) a civil penalty;

15 (D) a court fee or court cost; or

16 (E) a fee for the preparation, duplication, or transmission of
 17 a document; and

18 (2) the person pays the clerk by means of a credit card, debit
 19 card, charge card, or similar method.

20 **Sec. 2. A payment made under this chapter does not finally**
 21 **discharge the person's liability and the person has not paid the**
 22 **liability until the clerk receives payment or credit from the**
 23 **institution responsible for making the payment or credit. The clerk**
 24 **may contract with a bank or credit card vendor for acceptance of**
 25 **bank or credit cards. However, if there is a vendor transaction**
 26 **charge or discount fee, whether billed to the clerk or charged**
 27 **directly to the clerk's account, the clerk shall collect a fee from the**
 28 **person using the bank or credit card. The fee is a permitted**
 29 **additional charge to the money the clerk is required to collect**
 30 **under section 1(1) of this chapter.**

31 **Sec. 3. The clerk shall forward credit card service fees collected**
 32 **under this chapter to the county auditor or city or town fiscal**
 33 **officer in accordance with IC 33-19-1-3(a). These funds may be**
 34 **used without appropriation to pay the transaction charge or**
 35 **discount fee charged by the bank or credit card vendor.**

36 SECTION 20. IC 35-33-8-9 IS ADDED TO THE INDIANA CODE
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 38 1, 2003]: **Sec. 9. In addition to any other condition of bail imposed**
 39 **under this chapter, a defendant who posts bail by means of a credit**
 40 **card shall pay the credit card service fee under IC 33-19-6.5.**

41 SECTION 21. IC 35-33-9-7 IS ADDED TO THE INDIANA CODE
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 43 1, 2003]: **Sec. 7. In addition to any other condition of bail imposed**
 44 **under this chapter, a defendant who posts bail by means of a credit**
 45 **card shall pay the credit card service fee under IC 33-19-6.5.**

46 SECTION 22. IC 36-1-8-5, AS AMENDED BY P.L.251-2001,
 47 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 48 JULY 1, 2003]: **Sec. 5. (a) This section applies to all funds raised by a**
 49 **general or special tax levy on all the taxable property of a political**
 50 **subdivision.**

51 (b) Whenever the purposes of a tax levy have been fulfilled and an

unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

(1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.

(2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.

(3) Funds of a township for redemption of poor relief obligations, to the poor relief fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) Transfers to a political subdivision's rainy day fund must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.

SECTION 23. IC 36-1-8-5.1, AS AMENDED BY P.L.90-2002, SECTION 461, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund ~~to receive transfers of unused and unencumbered funds under section 5 of this chapter. by the adoption of:~~

(1) an ordinance, in the case of a county, city, or town; or

(2) a resolution, in the case of any other political subdivision.

(b) An ordinance or a resolution adopted under this section must specify the following:

(1) The purposes of the rainy day fund.

(2) The sources of funding for the rainy day fund.

~~(b)~~ (c) The rainy day fund is subject to the same appropriation process as other funds that receive tax money. ~~Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.~~

~~(c)~~ (d) In any fiscal year, a political subdivision may transfer not more than ten percent (10%) of the political subdivision's **total annual**

1 budget for that fiscal year year, adopted under IC 6-1.1-17, to the
2 rainy day fund.

3 ~~(d)~~ (e) A political subdivision may use only the funding sources
4 specified in the ordinance or resolution establishing the rainy day
5 fund unless the political subdivision adopts a subsequent ordinance
6 or resolution authorizing the use of another funding source.

7 (f) The department of local government finance may not reduce the
8 actual or maximum permissible levy of a political subdivision as a
9 result of a balance in the rainy day fund of the political subdivision.

10 SECTION 24. IC 36-1-8-11 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This section
12 does not apply to a county treasurer governed by IC 36-2-10-23.

13 (b) As used in this section, "credit card" means a:

- 14 (1) credit card;
- 15 (2) debit card;
- 16 (3) charge card; or
- 17 (4) stored value card.

18 (c) A payment to a political subdivision or a municipally owned
19 utility for any purpose may be made by any of the following financial
20 instruments that the fiscal body of the political subdivision or the board
21 of the municipally owned utility authorizes for use:

- 22 (1) Cash.
- 23 (2) Check.
- 24 (3) Bank draft.
- 25 (4) Money order.
- 26 (5) Bank card or credit card.
- 27 (6) Electronic funds transfer.
- 28 (7) Any other financial instrument authorized by the fiscal body.

29 (d) If there is a charge to the political subdivision or municipally
30 owned utility for the use of a financial instrument, ~~other than a bank~~
31 ~~card or credit card~~, the political subdivision or municipally owned
32 utility ~~shall~~ may collect a sum equal to the amount of the charge from
33 the person who uses the financial instrument.

34 (e) If authorized by the fiscal body of the political subdivision or the
35 board of the municipally owned utility, the political subdivision or
36 municipally owned utility may accept payments under this section with
37 a bank card or credit card under the procedures set forth in this section.
38 However, the procedure authorized for a particular type of payment
39 must be uniformly applied to all payments of the same type.

40 (f) The political subdivision or municipally owned utility may
41 contract with a bank card or credit card vendor for acceptance of bank
42 cards or credit cards.

43 (g) The political subdivision or municipally owned utility may pay
44 any applicable bank card or credit card service charge associated with
45 the use of a bank card or credit card under this subsection.

46 (h) The authorization of the fiscal body of the political subdivision
47 is not required by the bureau of motor vehicles or the bureau of motor
48 vehicles commission to use electronic funds transfer or other financial
49 instruments to transfer funds to the political subdivision.

50 SECTION 25. IC 36-2-7-9 IS AMENDED TO READ AS FOLLOWS
51 [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) When the county treasurer~~

performs duties in a second class city under IC 36-4-10-6, the treasurer shall pay fees accruing exclusively on city business into the general fund of the city:

(b) This chapter does not require the county sheriff to pay the following into the county general fund:

(1) Any damages set forth in a warrant that is issued by the department of state revenue and on which collection is made by the sheriff, including damages prescribed by IC 6-8.1-8.

(2) Sums, other than court fees, retained by the circuit court clerk for the sheriff from the collections obtained by warrants of the department of workforce development.

(3) Sums allowed by IC 36-8 to sheriffs for the feeding of prisoners.

SECTION 26. IC 36-4-3-5, AS AMENDED BY P.L.224-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(f) ~~In a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000); the court shall hear and determine the petition without a jury and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:~~

~~(1) essential city services and facilities are or can be made available to the residents of the territory sought to be annexed;~~

~~(2) the city is physically and financially able to provide city services to the territory sought to be annexed; and~~

~~(3) the territory sought to be annexed is contiguous to the city.~~

~~If the evidence does not establish all three (3) of the preceding factors, the court shall deny the petition and dismiss the proceeding.~~

SECTION 27. IC 36-4-3-11, AS AMENDED BY P.L.224-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsection (d), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by: ~~(1) if the annexation is by a city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000): (A) a majority of the owners of land in the annexed territory; or (B) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory; or (2) if the annexation is by a municipality that is not described in subdivision (1):~~

~~(A) (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or~~

~~(B) (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.~~

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the

defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

SECTION 28. IC 36-4-3-13, AS AMENDED BY P.L.170-2002, SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate

boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria. ~~However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000); the fiscal plan of a city must show that these services will be provided to the annexed territory within four (4) years after the effective date of the annexation and in the same manner as those services are provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, or population density.~~

(e) ~~This subsection does not apply to a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).~~ At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).
 (2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or

1 water services to the entire territory to be annexed:

- 2 (1) within the three (3) years preceding the date of the introduction
 3 of the annexation ordinance; or
 4 (2) under a contract in lieu of annexation entered into under
 5 IC 36-4-3-21.

6 The court may not consider the provision of water services as a result
 7 of an order by the Indiana utility regulatory commission to constitute
 8 the provision of water services to the territory to be annexed.

9 (g) This subsection applies only to cities located in a county having
 10 a population of more than two hundred thousand (200,000) but less
 11 than three hundred thousand (300,000). However, this subsection does
 12 not apply if on April 1, 1993, the entire boundary of the territory that
 13 is proposed to be annexed was contiguous to territory that was within
 14 the boundaries of one (1) or more municipalities. At the hearing under
 15 section 12 of this chapter, the court shall do the following:

- 16 (1) Consider evidence on the conditions listed in subdivision (2).
 17 (2) Order a proposed annexation not to take place if the court finds
 18 that all of the following conditions exist in the territory proposed
 19 to be annexed:

20 (A) The following services are adequately furnished by a
 21 provider other than the municipality seeking the annexation:

- 22 (i) Police and fire protection.
 23 (ii) Street and road maintenance.

24 (B) The annexation will have a significant financial impact on
 25 the residents or owners of land.

26 (C) One (1) of the following opposes the annexation:

- 27 (i) A majority of the owners of land in the territory proposed
 28 to be annexed.
 29 (ii) The owners of more than seventy-five percent (75%) in
 30 assessed valuation of the land in the territory proposed to be
 31 annexed.

32 Evidence of opposition may be expressed by any owner of land
 33 in the territory proposed to be annexed.

34 (h) The most recent:

- 35 (1) federal decennial census;
 36 (2) federal special census;
 37 (3) special tabulation; or
 38 (4) corrected population count;

39 shall be used as evidence of resident population density for purposes
 40 of subsection (b)(2)(A), but this evidence may be rebutted by other
 41 evidence of population density.

42 SECTION 29. IC 36-4-3-16, AS AMENDED BY P.L.217-1999,
 43 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 44 JULY 1, 2003]: Sec. 16. (a) Within one (1) year after the expiration of:

- 45 (1) the one (1) year period for implementation of planned services
 46 of a noncapital nature under section 13(d)(4) of this chapter; **or**
 47 (2) the three (3) year period for the implementation of planned
 48 services of a capital improvement nature under section 13(d)(5) of
 49 this chapter; **or**
 50 ~~(3) the four (4) year period for the implementation of planned~~
 51 ~~services of a capital improvement nature under section 13(d)(5) of~~

1 this chapter by a city for annexed territory in a county having a
 2 population of more than two hundred thousand (200,000) but less
 3 than three hundred thousand (300,000);

4 any person who pays taxes on property located within the annexed
 5 territory may file a complaint alleging injury resulting from the failure
 6 of the municipality to implement the plan. The complaint must name
 7 the municipality as defendant and shall be filed with the circuit or
 8 superior court of the county in which the annexed territory is located.

9 (b) The court shall hear the case within sixty (60) days without a jury.
 10 In order to be granted relief, the plaintiff must establish one (1) of the
 11 following:

12 (1) That the municipality has without justification failed to
 13 implement the plan required by section 13 of this chapter within
 14 the specific time limit for implementation after annexation.

15 (2) That the municipality has not provided police protection, fire
 16 protection, sanitary sewers, and water for human consumption
 17 within the specific time limit for implementation, unless one (1) of
 18 these services is being provided by a separate taxing district or by
 19 a privately owned public utility.

20 (3) That the annexed territory is not receiving governmental and
 21 proprietary services substantially equivalent in standard and scope
 22 to the services provided by the municipality to other areas of the
 23 municipality, regardless of topography, patterns of land use, and
 24 population density similar to the annexed territory.

25 (c) The court may:

26 (1) grant an injunction prohibiting the collection of taxes levied by
 27 the municipality on the plaintiff's property located in the annexed
 28 territory;

29 (2) award damages to the plaintiff not to exceed one and one-fourth
 30 (1 1/4) times the taxes collected by the municipality for the
 31 plaintiff's property located in the annexed territory;

32 (3) order the annexed territory or any part of it to be disannexed
 33 from the municipality;

34 (4) order the municipality to submit a revised fiscal plan for
 35 providing the services to the annexed territory within time limits
 36 set up by the court; or

37 (5) grant any other appropriate relief.

38 (d) A change of venue from the county is not permitted for an action
 39 brought under this section.

40 (e) If the court finds for the plaintiff, the defendant shall pay all court
 41 costs and reasonable attorney's fees as approved by the court.

42 (f) The provisions of this chapter that apply to territory disannexed
 43 by other procedures apply to territory disannexed under this section.

44 SECTION 30. IC 36-4-6-19 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The legislative
 46 body may, by ordinance, make loans of money and issue bonds for the
 47 purpose of refunding those loans. The loans may be made only for the
 48 purpose of procuring money to be used in the exercise of the powers of
 49 the city or for the payment of city debts.

50 (b) An ordinance adopted under this section:

51 (1) must include the terms of the bonds to be issued in evidence of

- 1 the loan;
- 2 (2) must include the time and manner of giving notice of the sale
- 3 of the bonds;
- 4 (3) must include the manner in which the bonds will be sold; and
- 5 (4) may authorize a total amount for any issue of bonds.
- 6 (c) Bonds issued under this section may be sold in parcels of any size
- 7 and at any time their proceeds are needed by the city.
- 8 (d) Bonds issued and sold by a city under this section:
- 9 (1) are negotiable with or without registration, as may be provided
- 10 by the ordinance authorizing the issue;
- 11 (2) may bear interest at any rate;
- 12 (3) may run not longer than thirty (30) years;
- 13 (4) may contain an option allowing the city to redeem them in
- 14 whole or in part at specified times prior to maturity; and
- 15 (5) may be sold for not less than par value.
- 16 (e) The city fiscal officer shall:
- 17 (1) manage and supervise the preparation, advertisement,
- 18 negotiations, and sale of bonds under this section, subject to the
- 19 terms of the ordinance authorizing the sale;
- 20 (2) certify the amount the purchaser is to pay, together with the
- 21 name and address of the purchaser;
- 22 (3) receive the amount of payment certified;
- 23 (4) deliver the bonds to the purchaser;
- 24 (5) take a receipt for the securities delivered;
- 25 (6) pay the purchaser's payment into the city treasury; and
- 26 (7) report the proceedings in the sale to the legislative body.
- 27 The actions of the fiscal officer under this subsection are ministerial.
- 28 (f) ~~This subsection applies only to second class cities subject to~~
- 29 ~~IC 36-4-10-6. Notwithstanding subsection (e), the fiscal officer of a city~~
- 30 ~~selling bonds under this section shall deliver them to the county~~
- 31 ~~treasurer after they have been properly executed and shall take his~~
- 32 ~~receipt for them. When a contract for the sale of all or any part of the~~
- 33 ~~bonds is consummated, the fiscal officer shall certify to the county~~
- 34 ~~treasurer the amount the purchaser is to pay, together with the name~~
- 35 ~~and address of the purchaser. The county treasurer shall then receive~~
- 36 ~~from the purchaser the amount certified by the fiscal officer, deliver the~~
- 37 ~~bonds to the purchaser, and take the purchaser's receipt for the bonds.~~
- 38 ~~The fiscal officer and county treasurer shall then report the proceedings~~
- 39 ~~in the sale to the legislative body. However, if the county treasurer is~~
- 40 ~~not present to receive the properly executed bonds from the fiscal~~
- 41 ~~officer or to issue the bonds, the fiscal officer shall proceed under~~
- 42 ~~subsection (e).~~
- 43 SECTION 31. IC 36-6-4-14 IS AMENDED TO READ AS
- 44 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. When his term of
- 45 office expires, the executive shall:
- 46 (1) immediately deliver to the new executive custody of all funds
- 47 and property of the township, except records necessary in the
- 48 preparation of his annual report;
- 49 (2) deliver to the new executive, not later than the second Monday
- 50 in the next January, his annual report and any records he has
- 51 retained; and

(3) attend the annual meeting of the township legislative body ~~on the second Tuesday after the first Monday in the next January; held under IC 36-6-6-9~~ and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year.

SECTION 32. IC 36-6-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants ~~monthly~~ on vouchers verified by the claimant and approved by the officer in whose office he is employed.

SECTION 33. IC 36-6-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Deputies and other employees of a township assessor must file their claims for compensation, which must be verified by the township assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. Deputies and other employees of a township assessor shall be paid ~~monthly~~ out of the county treasury, on the warrant of the county auditor.

(b) Employees of the township assessor are entitled to no compensation other than that provided by this chapter.

SECTION 34. IC 36-7-4-208, AS AMENDED BY P.L.276-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 208. (a) ADVISORY. The county plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county surveyor or the county surveyor's designee.

(4) The county agricultural extension educator. **However, if the county does not have a county agricultural extension educator, the county extension board shall select a resident of the county who is a property owner with agricultural interest to serve on the commission under this subdivision for a period not to exceed one (1) year.**

(5) Five (5) members appointed in accordance with one (1) of the following:

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party and all four (4) of whom must be residents of unincorporated areas of the county, appointed by the county executive. Also one (1) township trustee, who must be a resident of an unincorporated area of the county, appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party, and all five (5) of whom must be residents of unincorporated areas of the county appointed by the county executive.

If a county executive changes the plan commission from having members described in clause (B) to having members described in

clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) ADVISORY. The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who are residents of unincorporated areas of the county, of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.

(4) One (1) of the following appointed by the county executive:

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee.

(5) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county executive.

(6) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4), (c)(5), and (c)(6) and:

(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

(e) AREA. The appointing authority may appoint an alternate

1 member to participate on a commission established under section 204
 2 of this chapter in a hearing or decision if the regular member it has
 3 appointed is unavailable. An alternate member shall have all of the
 4 powers and duties of a regular member while participating on the
 5 commission.

6 SECTION 35. IC 36-8-3-3, AS AMENDED BY P.L.125-2001,
 7 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2003]: Sec. 3. (a) A majority of the members of the safety
 9 board constitutes a quorum. The board shall adopt rules concerning the
 10 time of holding regular and special meetings and of giving notice of
 11 them. The board shall elect one (1) of its members chairman, who
 12 holds the position as long as prescribed by the rules of the board. The
 13 board shall record all of its proceedings.

14 (b) The members of the safety board may act only as a board. No
 15 member may bind the board or the city except by resolution entered in
 16 the records of the board authorizing him to act in its behalf as its
 17 authorized agent.

18 (c) The safety board shall appoint:

19 (1) the members and other employees of the police department
 20 other than those in an upper level policymaking position;

21 (2) the members and other employees of the fire department other
 22 than those in an upper level policymaking position;

23 (3) a market master; and

24 (4) other officials that are necessary for public safety purposes.

25 (d) The annual compensation of all members of the police and fire
 26 departments and other appointees shall be fixed by ordinance of the
 27 legislative body before:

28 (1) ~~August~~ **September** 20 for a second class city; and

29 (2) September 20 for a third class city;

30 of each year for the ensuing budget year. The ordinance may grade the
 31 members of the departments and regulate their pay by rank as well as
 32 by length of service. If the legislative body fails to adopt an ordinance
 33 fixing the compensation of members of the police or fire department,
 34 the safety board may fix their compensation, subject to change by
 35 ordinance.

36 (e) The safety board, subject to ordinance, may also fix the number
 37 of members of the police and fire departments and the number of
 38 appointees for other purposes and may, subject to law, adopt rules for
 39 the appointment of members of the departments and for their
 40 government.

41 (f) The safety board shall divide the city into police precincts and fire
 42 districts.

43 (g) The police chief has exclusive control of the police department,
 44 and the fire chief has exclusive control of the fire department, subject
 45 to the rules and orders of the safety board. In time of emergency, the
 46 police chief and the fire chief are, for the time being, subordinate to the
 47 city executive and shall obey his orders and directions, notwithstanding
 48 any law or rule to the contrary.

49 SECTION 36. IC 36-8-6-2 IS AMENDED TO READ AS FOLLOWS
 50 [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A police pension fund to be
 51 known as the 1925 fund is established in each municipality described

1 in section 1(a) of this chapter.

2 (b) The 1925 fund shall be managed by a board of trustees (referred
3 to as the "local board" in this chapter) having at least seven (7) but not
4 more than nine (9) trustees, as follows:

5 (1) The municipal executive, the municipal fiscal officer, ~~(except~~
6 ~~in a city subject to IC 36-4-10-6, in which case the county~~
7 ~~treasurer)~~, and the police chief, who are ex officio voting members
8 of the local board.

9 (2) One (1) retired member of the police department.

10 (3) At least three (3) but not more than five (5) active members of
11 the police department.

12 However, in cities where there are not sufficient members of the police
13 department to appoint a local board consisting of at least five (5)
14 trustees, the local board may be composed of three (3) trustees, those
15 being the executive, the fiscal officer, and the police chief.

16 (c) The trustees under subsections (b)(2) and (b)(3) shall be elected
17 at a meeting of the members of the police department at the central
18 police station on the second Monday in February of each year. The
19 trustees are elected for terms of three (3) years, succeeding those
20 trustees whose terms of office expire on that date. The trustees hold
21 their offices until their successors are elected and qualified.

22 (d) If a vacancy occurs on the local board among those trustees
23 elected by the police department, the police department shall, within a
24 reasonable time, hold a special meeting upon the call of the municipal
25 executive and elect a successor for the remainder of the trustee's term.

26 (e) A majority of all the trustees constitutes a quorum for the
27 transaction of business.

28 (f) The trustees receive no pay for their services and shall be paid
29 only their necessary expenses. However, the trustees, the secretary, and
30 each member of the police department selected by the local board shall
31 be paid their necessary traveling expenses from the 1925 fund when
32 acting upon matters pertaining to the fund.

33 (g) The local board may make all necessary bylaws for:

34 (1) meetings of the trustees;

35 (2) the manner of their election, including the counting and
36 canvassing of the votes;

37 (3) the collection of all money and other property due or belonging
38 to the 1925 fund;

39 (4) all matters connected with the care, preservation, and
40 disbursement of the fund; and

41 (5) all other matters connected with the proper execution of this
42 chapter.

43 SECTION 37. IC 36-8-6-3 IS AMENDED TO READ AS FOLLOWS
44 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The municipal executive is
45 president of the local board, the municipal fiscal officer ~~(or county~~
46 ~~treasurer)~~ is its treasurer, and the local board shall select one (1) of its
47 members secretary. The secretary shall be paid out of the 1925 fund a
48 sum for ~~his~~ **the secretary's** services as fixed by the local board.

49 (b) The president shall preside over all meetings of the local board,
50 call special meetings of the police department of the city, and preside
51 over the annual and called meetings of the department concerning the

1 1925 fund.

2 (c) The treasurer:

3 (1) has custody of all money and securities due or belonging to the
4 1925 fund and shall collect the principal and interest on them;

5 (2) is liable on ~~his~~ **the treasurer's** bond as an officer for the
6 municipality for the faithful accounting of all money and securities
7 belonging to the fund that come into ~~his~~ **the treasurer's** hands;

8 (3) shall keep a separate account showing at all times the true
9 condition of the fund; and

10 (4) shall, upon the expiration of ~~his~~ **the treasurer's** term of office,
11 account to the local board for all money and securities coming into
12 ~~his~~ **the treasurer's** hands, including the proceeds of them, and turn
13 over to ~~his~~ **the treasurer's** successor all money and securities
14 belonging to the fund remaining in ~~his~~ **the treasurer's** hands.

15 (d) The secretary shall:

16 (1) keep a true account of the proceedings of the local board and
17 of the police department of the municipality when acting upon
18 matters relating to the 1925 fund;

19 (2) keep a correct statement of the accounts of each member with
20 the fund;

21 (3) collect and turn over to the treasurer of the local board all
22 money belonging to the fund;

23 (4) give the local board a monthly account of ~~his~~ **the secretary's**
24 acts and services as secretary; and

25 (5) turn over to ~~his~~ **the secretary's** successor all books and papers
26 pertaining to the office.

27 (e) The secretary shall, in the manner prescribed by IC 5-4-1, execute
28 a bond conditioned upon the faithful discharge of ~~his~~ **the secretary's**
29 duties.

30 (f) The secretary and treasurer shall make complete and accurate
31 reports of their trusts to the local board on the first Monday in February
32 of each year, copies of which shall be filed with the municipal clerk.
33 The books of the secretary and treasurer must be open at all times to
34 examination by members of the local board.

35 (g) Each member of the police department shall turn over to the
36 secretary of the local board, within thirty (30) days after receiving it, all
37 money and securities belonging to the 1925 fund that come into ~~his~~ **the**
38 **secretary's** hands.

39 SECTION 38. IC 36-8-7-10, AS AMENDED BY P.L.35-1999,
40 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2003]: Sec. 10. (a) The local board shall determine how much
42 of the 1937 fund may be safely invested and how much should be
43 retained for the needs of the fund. Investments are restricted to the
44 following:

45 (1) Interest bearing direct obligations of the United States or of the
46 state or bonds lawfully issued by an Indiana political subdivision.
47 The securities shall be deposited with and must remain in the
48 custody of the treasurer of the local board, who shall collect the
49 interest on them as it becomes due and payable.

50 (2) Savings deposits or certificates of deposit of a chartered

national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, ~~or county treasurer acting under IC 36-4-10-6~~, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer (~~or county treasurer~~) shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that ~~he~~ **the fiscal officer** will faithfully discharge the duties of ~~his~~ **the fiscal officer's** office and faithfully account for and pay over to the persons authorized to receive it all money that comes into ~~his~~ **the fiscal officer's** hands by virtue of ~~his~~ **the fiscal officer's** office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer (~~or county treasurer~~) until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

SECTION 39. IC 36-8-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. All money that is collected and received by the local board or an officer of it by virtue of subdivisions (1) through (4) of section 8 of this chapter shall be paid to the unit's fiscal officer, (~~or county treasurer~~), who shall credit this money to the 1937 fund. The 1937 fund is a public fund for purposes of IC 5-13.

SECTION 40. IC 36-8-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. The unit's fiscal officer ~~or county treasurer acting under IC 36-4-10-6~~, is the custodian

of all money belonging to the 1937 fund, and all money belonging to the fund shall be promptly paid to the officer. The officer is liable on ~~his~~ **the officer's** bond for the faithful performance of all duties imposed upon ~~him~~ **the officer** by this chapter in relation to the fund and for the faithful accounting of all money and securities that come into ~~his~~ **the officer's** possession and belong to the fund. The officer shall keep a separate account of the 1937 fund, which must always show the true condition of the fund.

SECTION 41. IC 36-8-12.2-8, AS ADDED BY P.L.33-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a) Money collected under this chapter must be deposited in one (1) of the following:**

(1) The general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1). and

(2) A hazardous materials response fund established under section 8.1 of this chapter by a city or town having a fire department established under IC 36-8-2-3.

(b) Money collected under this chapter may be used only for the following:

(1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.

(2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter.

(3) Payment to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter.

SECTION 42. IC 36-8-12.2-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.1. (a) The fiscal body of each city or town that establishes a fire department under IC 36-8-2-3 may, by ordinance or resolution, establish a hazardous materials response fund.**

(b) The hazardous materials response fund shall be administered by the unit's fiscal officer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 43. IC 36-9-13-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) For the purpose of obtaining money to pay the cost of:

(1) acquiring or constructing government buildings;

(2) acquiring land;

(3) acquiring systems;

(4) improving, reconstructing, or renovating government buildings, systems, or land;

(5) repaying any advances for preliminary expenses made to the building authority by an eligible entity;

(6) purchasing plans, designs, programs, and devices for governmental buildings or systems; or

(7) refinancing any loan made under section 31 of this chapter; the board of directors of a building authority may issue revenue bonds of the authority.

(b) The bonds are payable solely from the income and revenues of the particular government buildings, systems, or land for which the bonds were issued.

(c) The bonds must be authorized by resolution of the board. The bonds:

(1) bear interest payable semiannually; and

(2) mature serially, either annually or semiannually, at times determined by the resolution authorizing the bonds.

However, the maturities of the bonds may not extend over a period longer than the period of the lease of the government buildings, systems, or land for which the bonds are issued.

(d) The bonds may, and all bonds maturing after five (5) years from date of issuance shall, be made redeemable before maturity at the option of the board of directors of the building authority. Such a redemption must be at the par value of the bonds, together with the premiums, and under the terms and conditions fixed by the resolution authorizing the issuance of the bonds.

(e) The principal and interest of the bonds may be made payable in any lawful medium.

(f) The resolution authorizing the issuance of the bonds must:

(1) determine the form of the bonds, including the interest coupons (if any) to be attached to them;

(2) fix the denomination or denominations of the bonds; and

(3) fix the place or places of payment of the principal and interest of the bonds, which must be at a state or national bank or trust company within Indiana and may also be at one (1) or more state or national banks or trust companies outside Indiana.

(g) The bonds are negotiable instruments under IC 26-1.

(h) The resolution authorizing the issuance of the bonds may provide for the registration of any of the bonds in the name of the owner as to principal alone.

(i) The bonds shall be executed by the president of the board of directors, the corporate seal of the authority shall be affixed to the bonds and attested by the secretary of the board, and the interest coupons (if any) attached to the bonds shall be executed by placing the facsimile signature of the treasurer of the board on them.

(j) The bonds may be sold at a private sale, a negotiated sale, or a public sale.

~~(j) Notice~~ **(k) If the bonds are sold at a public sale, notice** of the sale of the bonds shall be published in accordance with IC 5-3-1.

~~(k)~~ **(l)** The board of directors shall sell the bonds at public sale, for not less than their par value. The board shall award the bonds to the highest bidder, as determined by computing the total interest on the bonds from the date of sale to the dates of maturity and deducting from that amount the premium bid, if any. Any premium received from the sale of the bonds shall be used solely for the payment of principal and

1 interest on the bonds. If the bonds are not sold on the date fixed for the
2 sale, then the sale may be continued from day to day until a satisfactory
3 bid has been received.

4 ~~(H)~~ (m) The board of directors may issue temporary bonds, with or
5 without coupons. These bonds, which must be issued in the manner
6 prescribed by this section, may be exchanged for the bonds that are
7 subsequently issued.

8 SECTION 44. IC 36-10-4-16 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A tax on the
10 taxable property in the district, as it appears on the tax duplicate, shall
11 be levied annually by the city legislative body for park purposes.

12 (b) The tax shall be collected the same as other city taxes are
13 collected, and the city fiscal officer ~~(or county treasurer acting under~~
14 ~~IC 36-4-10-6)~~ shall, between the first and fifth days of each month,
15 notify the board of the amount of taxes collected for park purposes
16 during the preceding month. At the date of notification, the city fiscal
17 officer ~~(or county treasurer)~~ shall credit the park fund with the amount.

18 (c) The board may expend on behalf of the city all sums of money
19 collected from:

- 20 (1) taxes;
- 21 (2) the sale of privileges in the parks of the city;
- 22 (3) the sale of bonds of the city for park purposes; and
- 23 (4) any other source.

24 All gifts, donations, or payments that are given or paid to the city for
25 park purposes belong to the general park fund, the special nonreverting
26 operating fund, or the special nonreverting capital fund to be used by
27 the board as provided by this chapter. Warrants for expenditures shall
28 be drawn by the city fiscal officer upon a voucher of the board signed
29 by the president or vice president and secretary.

30 (d) The city legislative body may borrow money for the use of the
31 department and may issue the bonds of the city to pay back the
32 borrowed money in the manner provided by statute for the issue of
33 bonds for the general purposes of the city. However, the board may not
34 contract debts beyond the amount of its annual income and the amount
35 available from the sale of bonds or other sources.

36 (e) All money remaining in the treasury to the credit of the board at
37 the end of the calendar year belongs to the general park fund, the
38 special nonreverting operating fund, or the special nonreverting capital
39 fund for use by the board for park purposes.

40 (f) Park and recreation facilities and programs shall be made
41 available to the public free of charge as far as possible. However, if it
42 is necessary in order to provide a particular activity, the board may
43 charge a reasonable fee.

44 (g) The city legislative body may establish by ordinance upon request
45 of the board:

- 46 (1) a special nonreverting operating fund for park purposes from
47 which expenditures may be made as provided by ordinance, either
48 by appropriation by the board or by the city legislative body; or
- 49 (2) a special nonreverting capital fund for the purpose of acquiring
50 land or making specific capital improvements from which
51 expenditures may be made by appropriation by the city legislative

1 body.

2 The city legislative body shall designate the fund or funds into which
 3 the city fiscal officer (~~or county treasurer~~) shall deposit fees from golf
 4 courses, swimming pools, skating rinks, or other major facilities
 5 requiring major expenditures for management and maintenance. Money
 6 received from fees other than from major facilities or received from the
 7 sale of surplus property shall be deposited by the city fiscal officer (~~or~~
 8 ~~county treasurer~~) either in the special nonreverting operating fund or
 9 in the nonreverting capital fund, as directed by the board. However, if
 10 neither fund has been established, money received from fees or from
 11 the sale of surplus property shall be deposited in the general park fund.
 12 Money from either special fund may be disbursed only on approved
 13 claims allowed and signed by the president and secretary of the board.

14 (h) Money placed in the special nonreverting capital fund may not be
 15 withdrawn except for the purposes for which the fund was created,
 16 unless the fiscal body repeals the ordinance establishing the fund. The
 17 fiscal body may not repeal the ordinance under suspension of the rules.

18 (i) Money procured from fees or received from the sale of surplus
 19 property shall be deposited at least once each month with the city fiscal
 20 officer.

21 SECTION 45. IC 36-4-10-6 IS REPEALED [EFFECTIVE JULY 1,
 22 2003].

23 SECTION 46. [EFFECTIVE JULY 1, 2003] (a) **The state board of**
 24 **accounts shall review the format and content of the annual**
 25 **operational report required under IC 8-17-4.1-5, as amended by**
 26 **this act, and shall prescribe a streamlined report that addresses:**

- 27 (1) **easing the preparation of;**
- 28 (2) **the informational requirements of the users of; and**
- 29 (3) **the promotion of accuracy within;**
- 30 **the revised report.**

31 (b) **This SECTION expires January 1, 2004.**

32 SECTION 47. **An emergency is declared for this act.**

(Reference is to EHB 1242 as reprinted March 28, 2003.)

Conference Committee Report
on
Engrossed House Bill 1242

Signed by:

Representative Stevenson
Chairperson

Senator Skillman

Representative Ayres

Senator Dembowski

House Conferees

Senate Conferees